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be warned of a set screw fastening a collar near the end of the shaft. With this case is a note presenting the decisions on the right of servants to recover for injuries caused by projecting set screws in shafts and other moving machinery.

BANKRUPTCY—JURISDICTION OF SUITS BY TRUSTEE TO RECOVER ASSETS.—In *Bardes v. First Nat. Bank of Hawarden*, 20 Sup. Ct. 1000, the Supreme Court of the United States settles an important question of bankruptcy practice, in construing secs. 2 and 23 of Bankruptcy Act of 1898, as not conferring upon the District Courts of the United States jurisdiction of suits by the trustee to assert title to property, as assets of the bankrupt, against strangers to the bankruptcy proceeding, except by consent.

Much diversity of view had been developed in the lower courts on this subject, and it is fortunate that the point is now settled.

In the same case it is held that sec. 2 of the same act does not confer upon courts of bankruptcy general jurisdiction at law and in equity of proceedings to reduce into possession alleged assets of a bankrupt, as against strangers to the bankruptcy proceedings, who claim title to such property.

In brief, the court holds that clause (b) of sec. 23 means precisely what it declares, namely, that "suits by the trustee shall only be brought or prosecuted in the courts where the bankrupt, whose estate is being administered by such trustee, might have brought or prosecuted them if proceedings in bankruptcy had not been instituted, unless by consent of the proposed defendant."

CONSTITUTIONAL LAW—EXEMPTION FROM TAXATION.—In *Crafts v. Ray* (R. I.), 46 Atl. 1043, it is held that a constitutional provision that "all laws should be made for the good of the whole, and the burdens of the State are to be fairly divided among its citizens," is directory only, and does not prohibit the legislature from exempting from taxation the property of private corporations for a limited period.

The opinion by Stiness, C. J., contains a full discussion of this important question—a question as to which there is considerable diversity of opinion.

The exempting of corporations from municipal taxation, under legislative authority, as an inducement to them to locate in the cities extending the exemption, is quite common in Virginia. The constitutionality of such exemption is probably an open question in this State. Prior to the decision in *Whiting v. West Point*, 88 Va. 905, the constitutionality of such exemption had been upheld in several cases. These cases were, however, discredited in a *dictum* in *Whiting v. West Point* (*supra*), in consequence of which the law has been regarded since as unsettled. In a recent case in Lynchburg it was held by Judge Whittle, of the Circuit Court, that such legislation is not unconstitutional.

Laying authority aside, it would seem that the exemption from taxation of a purely private business corporation, having no public duties to perform, is, in effect, a subsidy to them wrung from the pockets of other tax-payers against their will, and for which they receive no consideration. In other words, it is taking private property for private use, and that, too, without compensation. In *Cole v. La-Grange*, 113 U. S. 6, it was held that an act of legislature, authorizing a municipal corporation to make a donation of its bonds to a private manufacturing corpora-

tion, as an inducement to locate its plant within the corporate limits, was unconstitutional, since the bonds and the interest thereon must eventually be paid by taxes levied upon the inhabitants of the city. The effect was, therefore, to deprive such citizens of their property without due process of law. In principle there seems but little difference between a direct donation and an indirect subsidy by exemption from those burdens which should be borne equally by every citizen, corporate or individual. In either case the burden of taxation is unequal.

Where, however, the corporation so subsidized is engaged in the performance of public duties, there is not the same objection to exemption from taxation. As the State, or the municipal corporation under State authority, may, unless constitutionally prohibited, donate funds or property in aid of such an enterprise, as being a public benefit, so, in consideration of such public benefit, an exemption of the property of such corporations from taxation may be lawfully made.

The soundness of this distinction between the exemption of purely private corporations and those engaged in the performance of public duties, has not, however, received the unanimous sanction of the courts. Indeed, the weight of judicial decision seems to be the other way. See *Mott v. Pennsylvania R. Co.*, 30 Pa. St. 9, 72 Am. Dec. 664 and note 680-684; *Hogg v. Mackay*, 23 Or. 339, 19 L. R. A. 77 and note; *Mobile and Ohio R. Co. v. Tennessee*, 153 U. S. 486; 5 Thompson on Corp. 5568-5577. The Virginia Constitution contains the following provisions pertinent to this subject.

"That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services. . . ." Bill of Rights, Art. 1, sec. 6.

"Taxation, except as hereafter provided, whether imposed by the State, county or corporate bodies, shall be equal and uniform, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as prescribed by law. No one species of property from which a tax may be collected, shall be taxed higher than any other species of property of equal value." Art. X, sec. 1.

"The legislature may exempt all property used exclusively for State, county, municipal, benevolent, charitable, educational and religious purposes." Id. sec. 3.